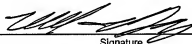


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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 34874-021 / 2003P00725US							
CERTIFICATE OF ELECTRONIC TRANSMISSION I hereby certify that this correspondence is being electronically transmitted to the Patent and Trademark Office on the date indicated below in accordance with 37 CFR 1.9(a)(1)(i)(C). August 27, 2007 Date of Transmission Signature <u><i>Maria Carvalho</i></u> Typed or printed name <u>Maria Carvalho</u>		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px;">Application Number 10/687,074</td> <td style="width: 50%; padding: 5px;">Filed October 16, 2003</td> </tr> <tr> <td colspan="2" style="padding: 5px;">First Named Inventor Heuer, C., et al.</td> </tr> <tr> <td style="padding: 5px;">Art Unit 2164</td> <td style="padding: 5px;">Examiner Samuel G. Rimell</td> </tr> </table>		Application Number 10/687,074	Filed October 16, 2003	First Named Inventor Heuer, C., et al.		Art Unit 2164	Examiner Samuel G. Rimell
Application Number 10/687,074	Filed October 16, 2003								
First Named Inventor Heuer, C., et al.									
Art Unit 2164	Examiner Samuel G. Rimell								
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p>									
<p>I am the</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. 52,315 Registration number _____ <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____ </div> <div style="width: 45%; text-align: right;">  Signature Michael D. Van Loy Typed or printed name (858) 320-3059 Telephone number August 27, 2007 Date </div> </div> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>									
<input checked="" type="checkbox"/> Total of <u>1</u> forms are submitted.									

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Heuer, C., et al.	Confirmation No.:	8900
Serial No.	: 10/687,074	Art Unit	: 2164
Filed	: October 16, 2003	Examiner	: Samuel G. Rimell
Title	: CONTROL FOR SELECTING DATA QUERY AND VISUAL CONFIGURATION		

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Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

This Pre-Appeal Brief Request for Review is with regards to the final office action mailed May 25, 2007. Allowance is respectfully requested in view of the Remarks contained in the following pages.

Overview

Claims 1-10 and 15-21 are pending, with claims 1, 15, 18, and 21 being independent. Reconsideration and allowance are requested.

Rejections under 35 U.S.C. § 102

Claims 1-10 and 15-21 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Kotas (U.S. Publication No. 2003/0204449A1). These rejections are traversed. The claims should be allowed because limitations recited explicitly in the claims are clearly neither disclosed nor suggested by Kotas. As such, at least for the reasons set forth in the arguments below, the Office has not met the statutory burden for rejection of any of the pending claims under 35 U.S.C. § 102(e), or in the alternative under 35 U.S.C. § 102(a) with respect to Kotas.

ARGUMENTS

- A. Kotas fails to disclose a control presenting a plurality of search options that each specify both an associated predetermined query and an associated predetermined visual configuration for displaying a result of the predetermined query.

As Applicants have stated repeatedly in the course of the prosecution of the above-referenced application, Kotas fails to disclose the claim limitation discussed above, which appears in independent claims 1 and 18. The Examiner has alleged a correspondence between the search menu of Kotas and the control recited in claims 1 and 18 of the instant application. This alleged correspondence is not reasonable in light of the disclosure of Kotas. While the Examiner has stated correctly that FIG. 1A and FIG. 3B of Kotas show that the search menu can show different queries (i.e. "Music" or "Camera and Photo," the Examiner has yet to make a showing as to how the search menu of Kotas presents multiple search options, each specifying a predetermined query and a predetermined visual configuration for presenting the results of that predetermined query. If the search menu presents an option for "Music," this can be construed as a search option specifying a query for music-related entries in a database. However, it simply cannot logically be interpreted that the search option also specifies a visual configuration for presenting the query results. The Examiner has stated that Kotas' disclosure of more than one format for displaying, such as for example those shown in FIG. 1A through FIG. 4C, anticipates the limitation of a control specifying visual configurations associated with predetermined queries. However, this allegation blatantly ignores the clear and explicit limitation that the control presents a plurality of search options, each specifying both a predetermined query and a predetermined visual configuration. Kotas discloses how the various displays.

Kotas does disclose, at paragraph [0052] that "two or more different versions or views of the same product detail page may be presented within the electronic catalog (see, e.g., FIGS. 1A and 1B)." However, it is clear from the disclosure at [0081]: "selection of the "7 used" link in FIG. 1A preferably causes the marketplace system to return a version of the detail page that includes detailed information about each listing falling in the "used" category, as depicted in FIG. 1B," that these different versions or views are not specified by a different search options in a control but rather that the view of FIG. 1B is reached by clicking a link displayed in the view of FIG. 1A. Such disclosure cannot possibly be held to anticipate the limitations of the control as recited in claims 1 and 18.

Likewise, the view of FIG. 3A in Kotas is not reached by use of a control that specifies a predetermined query and a predetermined visual configuration. Instead, as noted at paragraph [0088], FIG. 3A is a "preordering" page 300 that may be displayed in response to a buyer requesting to pre-order an item on a product's detail page, such as by the use of the preorder button 215 shown in FIG. 2." FIG. 3B is simply an example of a second product summary page, such as is shown in FIG. 1A for a different product. FIG. 3C to FIG. 3E are sequence of pages reached successively in

setting up a "market place product listing" (paragraph [0091]). Again, these are not different visual configurations that can be selected by a single control that specifies both a predetermined query and a predetermined visual configuration.

Finally, Kotas also clearly notes that FIG. 4A to FIG. 4C, which show views of a sequence of purchase history pages, are not anticipatory of the subject matter instantly claimed. At paragraph [0097] Kotas states that "selection of the "Sell Checked Items" button in FIG. 4A causes the system to generate and return a resell page 450 of the type illustrated in FIG. 4B." FIG. 4C is an example of an e-mail that can be sent from a marketplace system "to proactively generate requests to users to list their items in the marketplace" (paragraph [0100]). Again, none of these views, that have been erroneously cited by the Examiner as anticipatory of the instantly claimed subject matter, constitute visual configurations that are selectable by a search option that specifies both a predetermined query and a predetermined visual configuration for showing the results of that query.

For at least the above reasons, Kotas fails to disclose all of the limitations of claims 1 and 18. As such, it is respectfully submitted that the rejections of claims 1, and 18 under 35 U.S.C. § 102(e), as well as those of claims 2-10 and 19-20 which depend therefrom, are improper and should be immediately withdrawn.

It is further respectfully submitted that the same arguments presented above in regards to the control recited in claims 1 and 18 also apply to the control recited in claim 15. In claim 15, the queries in question are drill down queries, which are more detailed searches performed on the results of a previous query. As noted above, Kotas does not disclose any type of control that presents search options specifying both a query and an associated visual configuration for displaying the results of that query.

For at least the above reasons, Kotas fails to disclose all of the limitations of claim 15. As such, it is respectfully submitted that the rejections of claim 15 under 35 U.S.C. § 102(e), as well as those of claims 16-17 which depend therefrom, are improper and should be immediately withdrawn.

It is also respectfully submitted that the same arguments presented above in regards to the control recited in claim 1 also apply to the control recited in claim 21. Claim 21 differs slightly from claim 1 in that the control is not only capable of presenting the different search options, but rather does present the search options. As in claim 1, each search option presented by the control recited in claim 21 specifies both an associated query and an associated visual configuration for displaying the results of the associated query. This limitation is clearly not disclosed in Kotas as discussed above.

For at least the above reasons, Kotas fails to disclose all of the limitations of claim 21. As such, it is respectfully submitted that the rejection of claim 21 under 35 U.S.C. § 102(e) is improper and should be immediately withdrawn.

B. Kotas further fails to disclose either a control that presents at least two search options that specify a common predetermined query and different predetermined visual configurations (claim 2) or a control that presents at least two search options that specify a common predetermined visual configuration specify different predetermined queries (claim 3).

As noted above in regards to claim 1, Kotas fails to disclose a control that presents multiple search options, each of which specifies a query and a visual configuration for displaying that query. Even assuming *arguendo* that the search menu options of Kotas (i.e. "Music" or "Camera and Photo") also specify predetermined visual configurations for displaying the associated query results, Kotas further fails to disclose the limitations that the search options presented by the control specify either two different visual configurations for a common query (as recited in claim 2) or two different queries whose results are displayed using a common visual configuration (as recited in claim 3). FIG. 2 and FIG. 3 of the instant application show an example of the subject matter recited in claims 2 and 3. Nowhere does Kotas disclose or suggest a control presenting multiple search options with two of the options specifying a common query (i.e. "Music") but different visual configurations for displaying the query results. Thus, claim 2 cannot be properly rejected on the basis of Kotas. Likewise, nowhere does Kotas disclose or suggest a control presenting multiple search options with two of the options specifying different queries (i.e. "Music" and "Camera and Photo") but different visual configurations for displaying the query results. Thus, claim 3 cannot be properly rejected on the basis of Kotas.

For at least the above reasons, Kotas fails to disclose all of the limitations of claims 2 and 3. As such, it is respectfully submitted that the rejections of claims 2 and 3 under 35 U.S.C. § 102(e) are improper and should be immediately withdrawn.

CONCLUSION

In view of the remarks herein, claims 1-10 and 15-21 should be allowed. The foregoing comments made with respect to the positions taken in the office action are not to be construed as acquiescence with other positions of the office action that have not explicitly contested.

Accordingly, arguments for patentability of a claim should not be construed as implying that there are not other valid reasons for patentability of that claim or other claims.

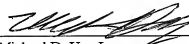
If there are any questions regarding these amendments and remarks, the Examiner is encouraged to contact the undersigned at the telephone number provided below.

Applicants are concurrently filing herewith a Notice of Appeal and a Pre-Appeal Brief Request for Review. The Commissioner is authorized to charge \$500.00 for the filing fee for the Notice of Appeal to our Deposit Account No. 50-0311, Reference No. 34874-021.

The Commissioner is also hereby authorized to charge any additional fees that may be due, or credit any overpayment of same, to Deposit Account No. 50-0311, Reference No. 34874-021.

Respectfully submitted,

Date: August 27, 2007




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I hereby certify that this correspondence is being electronically transmitted to the Patent and Trademark Office on the date indicated below in accordance with 37 CFR 1.8(a)(1)(i)(C).

August 27, 2007

Date of Transmission



Signature

Maria Carvalho

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